

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

JOHNATHON CATO, individually and on
behalf of all others similarly situated,

Plaintiff,

v.

ADTRAN, INC., a foreign profit corporation
doing business as ADTRAN; and DOES 1-20,

Defendants.

Case No.

NOTICE OF REMOVAL

TO: Johnathon Cato, Plaintiff, and his counsel of record

AND TO: THE CLERK OF THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF WASHINGTON AT TACOMA

Pursuant to 28 U.S.C. § 1332 and § 1441, Defendant Adtran, Inc. ("Adtran") hereby
provides notice of the removal of the above-entitled action from the Superior Court of the State
of Washington for Clark County to the United States District Court for the Western District of
Washington at Tacoma. The grounds for removal are as follows:

1. This case was commenced in the Clark County Superior Court of the State of
Washington by the filing of Plaintiff Johnathon Cato's Summons and Complaint for Damages as
Cause Number 23-2-03238-06. A copy of the Complaint ("Complaint") is attached to this
Notice of Removal as Exhibit A.

NOTICE OF REMOVAL - 1

2. Defendant Adtran was served with the Complaint on November 29, 2023.
Declaration of Christopher T. Wall (“Wall Decl.”), ¶ 3.

3. This Notice is being filed with this Court within thirty (30) days after Defendant Adtran was served. Wall Decl. ¶ 4.

4. Adtran is a Delaware corporation, with its principal place of business located in Huntsville, Alabama. Wall Decl. ¶ 5. Plaintiff is a resident of Washington State. Complaint, ¶ 6. Therefore, the parties are diverse under 28 U.S.C. § 1332 and 28 U.S.C. § 1441.

5. The Complaint asserts claims for statutory damages, actual damages, costs and expenses, and attorney’s fees. Complaint, ¶ 39–41. Among other damages, Plaintiff is seeking actual damages (such as lost earnings) and/or a statutory penalty of five thousand dollars, plus attorneys’ fees, costs, and expenses incurred—whichever is greater—pursuant to RCW 49.62.080. Complaint, ¶ 39–41. The Complaint claims that Plaintiff Johnathon Cato lost economic opportunities as a result of allegedly unlawful restrictive covenants and restraint of trade. *See generally*, Complaint. Plaintiff alleges that his base salary at Adtran was \$43,000 per year and he was eligible for additional commissions. Complaint, ¶ 18. Plaintiff alleges he entered into a severance agreement with allegedly violative restrictive terms with Adtran on or around June 14, 2023. Complaint, ¶ 13. Plaintiff also alleges these restrictions caused him to lose the ability to work for certain companies since that time. Complaint, ¶ 20 (“since his employment with Defendant ended”). Thus, Plaintiff’s alleged actual damages claim, as pleaded in the Complaint, is for approximately six months of lost earnings and any other actual loss. On top of that, the attorneys’ fees in this matter will easily place the amount in controversy over the \$75,000.00 requirement for diversity jurisdiction, as discussed in *Fritsch v. Swift Transp. Co. of Ariz., LLC*, 899 F.3d 785, 793 (9th Cir. 2018).

6. Accordingly, this court has original subject matter jurisdiction over the above-entitled action pursuant to 28 U.S.C. § 1332. The above-entitled action may be properly removed to this United States District Court pursuant to 28 U.S.C. § 1441.

NOTICE OF REMOVAL - 2

1 7. The Western District of Washington at Tacoma is the judicial district embracing
2 the place where this action is pending. 28 U.S.C. § 128(b).

3 8. In accordance with 28 U.S.C. § 1446(d), copies of this Notice of Removal will be
4 served on Plaintiff and filed with the Clerk of the Superior Court for the State of Washington for
5 Clark County.

6 9. Defendant Adtran does not waive any defense to the Complaint, including but not
7 limited to lack of service, improper service, or lack of personal jurisdiction.

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NOTICE OF REMOVAL - 3

1 DATED: December 19, 2023

STOEL RIVES LLP

2
3 s/ James M. Shore

4 James M. Shore, WSBA No. 28095
5 jim.shore@stoel.com
6 600 University Street, Suite 3600
7 Seattle, WA 98101
8 Telephone: 206.624.0900
9 Facsimile: 206.386.7500

10 s/ Christopher T. Wall

11 Christopher T. Wall, WSBA No. 45873
12 Christopher.wall@stoel.com
13 600 University Street, Suite 3600
14 Seattle, WA 98101
15 Telephone: 206.624.0900
16 Facsimile: 206.386.7500

17 s/ Jacqueline Middleton

18 Jacqueline Middleton, WSBA 52636
19 jacqueline.middleton@stoel.com
20 600 University Street, Suite 3600
21 Seattle, WA 98101
22 Telephone: 206.624.0900
23 Facsimile: 206.386.7500

24 s/ Aaron R. Doyer

25 Aaron R. Doyer, WSBA No. 60095
26 aaron.doyer@stoel.com
600 University Street, Suite 3600
Seattle, WA 98101
Telephone: 206.624.0900
Facsimile: 206.386.7500

*Attorneys for Defendant
Adtran, Inc.*

NOTICE OF REMOVAL - 4

CERTIFICATE OF SERVICE

I hereby certify that I served the foregoing on the following counsel on the date indicated below via the method indicated:

Timothy W. Emery
Patrick B. Reddy
Paul Cipriani
Emery Reddy, PLLC
600 Stewart Street, Suite 1100
Seattle, WA 98101
Email: emeryt@emeryreddy.com
Email: redryp@emeryreddy.com
Email: paul@emeryreddy.com

☒ U.S. Mail, postage prepaid
☒ email delivery

s/ Melissa Wood
Melissa Wood, Legal Practice Assistant

NOTICE OF REMOVAL - 5